

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

PHILIP J. CHARVAT,

Plaintiff,

v.

**TRUGREEN LIMITED
PARTNERSHIP, et al.,**

Defendants.

Case No. 11-cv-237

JUDGE GREGORY L. FROST

Magistrate Judge Terence P. Kemp

ORDER

This matter is before the Court on the Notice of Voluntary Dismissal with Prejudice. (ECF No. 17.) A plaintiff may voluntary dismissal upon notice only before the opposing party files an answer or by “a stipulation of dismissal signed by all parties who have appeared.” Fed. R. Civ. P. 41(a)(1)(A)(i) and (ii). A plaintiff may effectuate a dismissal otherwise only by court order. *See* Fed. R. Civ. P. 41(a)(2) (“Except as provided in Rule 41(a)(1), an action may be dismissed at the plaintiff’s request only by court order, on terms that the court considers proper.”). Plaintiff here failed to comply with Rule 41(a)(1). Thus, the Court accepts Plaintiff’s notice as a motion under Rule 41(a)(2) and hereby **GRANTS** that motion. The Clerk is **DIRECTED** to terminate this case from this Court’s civil docket.

IT IS SO ORDERED.

**/s/ Gregory L. Frost
GREGORY L. FROST
UNITED STATES DISTRICT JUDGE**